

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ROXANNE MARIE MARTINEZ

Plaintiff

v.

WAL-MART STORES TEXAS, L.L.C.
D/B/A WAL-MART SUPERCENTER #4102
Defendant

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CIVIL ACTION NO. **5:21-cv-189**

JURY DEMANDED

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1332 and 1441 (DIVERSITY)**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW WAL-MART STORES TEXAS, L.L.C. D/B/A WAL-MART SUPERCENTER #4102, Defendant in the above entitled and numbered cause, and files this Notice of Removal of the present cause from the 454th Judicial District Court of Medina County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, showing the Court as follows:

1. This cause was commenced in the 454th Judicial District Court of Medina County, Texas, on January 26, 2021, when Plaintiff's Original Petition was filed in Cause No. 21-01-26906-CV wherein Plaintiff ROXANNE MARIE MARTINEZ (hereinafter "Plaintiff") named WAL-MART STORES TEXAS, L.L.C. D/B/A WAL-MART SUPERCENTER #4102 (hereinafter "Walmart" or "Defendant") as the sole defendant. A copy of Plaintiff's Original Petition is attached hereto and incorporated herein for all purposes.

2. Defendant was served with a copy of Plaintiff's Original Petition on February 4, 2021. A copy of the Citation indicating date of service is attached hereto and incorporated herein for all purposes.

3. Plaintiff filed this civil action against Defendant asserting premises liability claims allegedly arising from a slip-and-fall incident which is claimed to have occurred on or about April 1, 2020, while Plaintiff was a patron at Defendant's premises located at 1151 US-90 E in Castroville, Medina County, Texas. Pl. Orig. Pet. at ¶6.

4. Defendant filed a responsive pleading in State Court on February 24, 2020, a copy of which is attached hereto and incorporated herein for all purposes.

5. Plaintiff resides in Bexar County in the State of Texas. See Pl. Orig. Pet. at ¶2. Plaintiff was at the time of the filing of this lawsuit, and remains, a citizen of the State of Texas.

5. Currently, and at all times relevant to this lawsuit, Defendant was and is organized and existing under the laws of the State of Arkansas with its principal place of business in the State of Arkansas. Defendant therefore, is a citizen of Arkansas, and is not a citizen of Texas.

6. Complete diversity of citizenship exists between the adverse parties in the present cause for the purposes of federal removal jurisdiction pursuant to 28 U.S.C. §1441.

7. In Plaintiff's Original Petition, Plaintiff states that she seeks monetary damages in an amount of "over One Million and 00/100 Dollars (\$1,000,000.00)." Pl. Orig. Pet. at ¶24. The amount in controversy herein therefore exceeds \$75,000.00, exclusive of interest and costs.

8. This action is one over which this Court has original jurisdiction under the provisions of Title 28, United States Code §§ 1332 and 1441(a) in that it is a civil action between completely diverse parties and that amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

9. This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446(b), in that it is filed within thirty (30) days of the service of Plaintiff's Original Petition on Defendant and within one year of the initial filing of the lawsuit.

10. Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendant to Plaintiff has been provided as required by law. A copy of this Notice is also being filed with the Clerk of the State Court in which this cause was originally filed.

11. Defendant hereby requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays for removal of the above entitled and numbered cause from the 454th Judicial District Court of Medina County, Texas to this Honorable Court.

Respectfully Submitted,

/s/ Jaime A. Saenz
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ATTORNEYS FOR DEFENDANTS
WAL-MART STORES TEXAS, L.L.C.
D/B/A WAL-MART SUPERCENTER #4102

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of February, 2021 I electronically filed the foregoing with the Clerk of Court for the District Court of Medina County, Texas using the CM/ECF system for the Clerk of Court for the District Court of Medina County, Texas which will send notification of such filing to all counsel of record.

/s/ Jaime A. Saenz
JAIME A. SAENZ